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140 Minn. 455, 168 N. W. 353. Although it is a clear departure from orthodox theory, the doctrine of the Totten case possesses the virtue of most closely approximating the true intent of the depositor. It has been suggested that this desirable result might be better attained by legislation. See Larremore, *Judicial Legislation in New York* (1905) 14 YALE LAW JOURNAL, 315. But the courts would then be so restricted to close interpretation as to make the legislation abortive. The doctrine further affords a practical method for poor persons to transmit property without a will. Of course, it is here in conflict with the Statute of Wills. See *Nicklas v. Parker* (1907) 71 N. J. Eq. 777, 61 Atl. 267. Furthermore there is danger of its being applied to analogous cases. See (1905) 19 HARV. L. REV. 207. The effect on inheritance taxation should also be considered. See (1919) 29 YALE LAW JOURNAL, 465. Evidently Maine prefers to be less practical and to remain orthodox.

WILLS—EXECUTORS AND ADMINISTRATORS—STATUTE OF NON-CLAIM—NO WAIVER BY FRAUDULENT CONDUCT OF ADMINISTRATOR.—The plaintiff, relying on the assurances of the administrator of a decedent's estate that the presentation to him of an itemized claim would be a compliance with the statute, failed to file her claim with the probate court according to law. Proceedings were instituted to review an order refusing to extend the time. Held, that the statute of non-claim could not be waived by any conduct of the administrator, however fraudulent. *State ex rel. Scherber v. Probate Court of Hennepin County, et al.* (1920, Minn.) 177 N. W. 354.

The decisions in the United States are almost uniform in holding that these statutes of non-claim, that are so like statutes of limitations, are imperative and mandatory and cannot be waived or tolled by the personal representatives under any circumstances. See 2 Schouler, *Wills, Executors, and Administrators* (5th ed. 1915) sec. 1390; Wood, *Limitation of Actions* (4th ed. 1916) sec. 188; L. R. A. 1915 B, 1042, note; *Security Trust Co. v. Black River National Bank* (1902) 187 U. S. 211, 23 Sup. Ct. 52; *Abbott v. Johnson* (1917) 130 Ark. 1, 195 S. W. 676. The same has been held as to the filing of claims for classification. *Spaulding v. Suss* (1877) 4 Mo. App. 541. The above cases differ from the instant case in lacking the element of fraud, but there are dicta to the effect that not even fraud could alter the iron-clad rule. See *Nagle v. Ball* (1893) 71 Miss. 330, 335, 13 So. 929, 930; *Vanderpool v. Vanderpool* (1914) 48 Mont. 448, 454, 138 Pac. 772, 774. In the cases under consideration, however, there is no such fraud as should work an estoppel in any event, the misrepresentation being one of law and the means of knowledge being equally accessible to the creditor and to the administrator. See Burdick, *Torts* (3d ed. 1913) sec. 449; Smith, *Frauds* (1907) secs. 14, 247. The result is quite inconsistent with that in an overwhelming majority of jurisdictions, allowing the personal representative to stop the running of the general statute, and with a decided authority to the effect that he may also waive it after it has run. See L. R. A. 1915 B, 1016, note. The distinction attempted by many courts—one of doubtful validity—is that the general statute is a bar to the remedy and the special, to the right. See *Branch Bank at Decatur v. Hawkins* (1848) 12 Ala. 755, 759; *Rhodes v. Cannon* (1914) 112 Ark. 6, 15, 164 S. W. 752, 754. But the statutes in some states allow the owners of claims so barred to reach after-discovered assets, and this result would suggest that the true explanation lies in the policy back of the statute of non-claim, namely, the provision of a speedy and effective mode of distribution of the property of decedents, fair to all concerned. See *Waughof v. Bartlett* (1896) 165 Ill. 124, 128, 46 N. E. 197, 198; *Vanderpool v. Vanderpool* (1914) 48 Mont. 448, 454, 138 Pac. 772, 774. The instant case would seem to be quite sound in requiring the creditor to safeguard his own interests by inquiring as to the law from some authoritative source.